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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHERILL FOSTER, HOWARD FOSTER,
SHEILA BURTON, and MINNIE BURTON,

Plaintiff,

vs.

SHANNON EDMONDS, LORI TYLER,
COUNTY OF LAKE; CITY OF
CLEARLAKE, and DOES 1 through 100,

Defendants

Case No.: C-07-5445 WHA

**DEFENDANT COUNTY OF LAKE'S
MOTION FOR RELIEF FROM
REFERRAL TO ALTERNATIVE
DISPUTE RESOLUTION (ADR)
MULTI-OPTION PROGRAM**

**(ADR LOCAL RULE 3.3(c) and Civil
Local Rule 7-11)**

Defendant COUNTY OF LAKE, pursuant to ADR Local Rule 3.3(c) and Civil Local Rule 7-11, hereby respectfully requests relief from assignment to the Alternative Dispute Resolution (ADR) Multi-Option Program. Good cause exists for the requested relief.

Initially assigned to Magistrate Judge Chen, this matter was automatically referred to the ADR Multi-Option Program in an Order filed October 24, 2007. (Docket Entry No. 2). Plaintiffs filed a First Amended Complaint on December 7, 2007, adding, *inter alia*, COUNTY OF LAKE as a Defendant. (Docket Entry No. 4). Following a delay in service of process, the parties declined to proceed before Magistrate Chen, and Defendants City of Clearlake and COUNTY OF LAKE respectively filed motions to dismiss. As more fully set

1 forth in its Motion to Dismiss the Complaint of Plaintiffs pursuant to F.R.Civ.P. Rule
 2 12(b)(6), Defendant reveals that no employee or agent of COUNTY OF LAKE is alleged to
 3 have been present on the night in question, so as to have violated the constitutional rights of
 4 Plaintiffs to support municipal liability under 42 U.S.C. section 1983. Indeed, it is widely
 5 reported that decedents were shot by Edmonds after they allegedly invaded the home and
 6 apparently beat a resident with a baseball bat. In other words, Defendant contends that the
 7 allegations of the Complaint against it are wholly without merit, and fail to support
 8 cognizable claims in law. Assuming the matter is not dismissed at the pleading stage,
 9 Defendant believes the matter will nonetheless be summarily adjudicated in its favor. As
 10 such, Defendant respectfully suggests that judicial and other resources, as well as the
 11 expenses and time by the court and the parties will not be best served in utilizing ADR which
 12 is ultimately not likely to yield fruitful settlement results under the unique alleged facts in this
 13 case. Accordingly, good cause exists to relieve this case from assignment to the Alternative
 14 Dispute Resolution (ADR) Multi-Option Program. On this basis, Defendant requests that the
 15 Order filed October 24, 2007, referring this matter to Alternative Dispute Resolution (ADR)
 16 Multi-Option Program be vacated.

17 Respectfully submitted,

18 Dated: May 22, 2008

PORTER SCOTT
 A PROFESSIONAL CORPORATION

/s/ John R. Whitefleet

By _____
 Terence J. Cassidy
 John R. Whitefleet
 Attorney for Defendant
 COUNTY OF LAKE